

VIRGINIA:

BEFORE THE VIRGINIA BOARD OF OPTOMETRY

IN RE: Richard D. Ayuso, O.D.
License No. 0601-001100

Case # 1989-00453 + 1990-00079
(54968) (55195)

CONSENT ORDER

Pursuant to §§ 9-6.14:11, 54.1-110 and 54.1-2400(8) of the Code of Virginia, an Informal Conference Committee of the Virginia Board of Optometry (hereinafter the "Board"), composed of Stanley L. Jason, O.D., and Charles E. Johnson, O.D., met with Richard D. Ayuso, O.D., on September 26, 1990 in Richmond, Virginia. Dr. Ayuso appeared in person and was not represented by counsel. The Board was represented by Francis W. Pedrotty, Assistant Attorney General. The purpose of the informal conference was to receive and act upon evidence concerning the allegations in the Notice of Informal Conference dated August 2, 1990.

FINDINGS OF FACT

After consideration of the evidence and testimony concerning the allegations, the following facts are adopted by the Board as if proven at a formal hearing:

1. That Richard D. Ayuso, O.D., holds license number 0601-001100 issued by the Virginia Board of Optometry.

2. That from approximately June of 1988 to May of 1990, Richard D. Ayuso, O.D., maintained his practice in the commercial optical establishment named "Crestwood Optical," which was owned and operated by Mr. Eric W. Keller. Dr. Ayuso's practice, located in the same building which houses Crestwood Optical, with

the same main entrance as Crestwood Optical, had no signs or a directory separate from that of Crestwood Optical.

3. That from approximately June of 1988 to May of 1990, Richard D. Ayuso, O.D., had a fee splitting arrangement with Mr. Keller providing for \$9.00 out of every \$39.00 examination fee to be remitted to Mr. Keller, or, with fees greater than \$39.00, Dr. Ayuso was to pay Mr. Keller twenty-five percent (25%) of whatever amounts were received above the \$39.00 charge.

4. That from approximately June of 1988 to May of 1990, Richard D. Ayuso, O.D., utilized numerous newspaper coupons and advertisements which listed his office phone number as (703) 369-7902, when in fact directory assistance had him listed under the Crestwood Optical phone number of (703) 369-1616.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that Findings of Fact 2, 3 and 4 constitute violations of §§ 54.1-3205(A), 54.1-3215(9) and (14) of the Code of Virginia (1950), as amended and § 3.1(7) of the Regulations of the Virginia Board of Optometry.

CONSENT

Richard D. Ayuso, O.D., by affixing his signature hereon, agrees to the following:

1. That he acknowledges he has been advised specifically to seek the advice of counsel prior to signing this document;
2. That he acknowledges that he is fully aware that without his consent no legal action can be taken against him except pursuant to the Virginia Administrative Process Act, §§ 9-6.14:12 of the Code of Virginia:

3. That he acknowledges he has the following rights, among others:

- a. the right to a formal fact-finding hearing before the Board;
- b. the right to representation by counsel; and
- c. the right to cross-examine witnesses against him.

4. That he waives all rights to a formal hearing;

5. That he admits the truth of the above Findings of Fact; and

6. That he consents to the following ORDER affecting his license to practice optometry in the Commonwealth of Virginia:

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact, Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED:

1. That Richard D. Ayuso, O.D., be, and hereby is, assessed a monetary penalty of four hundred dollars (\$400.00), said penalty shall be paid to the Board by certified check or money order within thirty (30) days from the entry of this Order. (If said monetary penalty is not received within the prescribed deadline, an additional one hundred dollar (\$100.00) late payment penalty shall be assessed for each week that the payment of the original penalty to the Board is delinquent. Late payment penalties can accrue up to a maximum of One Thousand Dollars (\$1000.00)). Failure to pay the full monetary penalty plus the additional late payment penalties within one hundred (100) days of the entry of this Order shall constitute grounds for a formal administrative hearing.

2. That Richard D. Ayuso, O.D., shall refrain from conducting his optometry practice within a commercial establishment.

3. That Richard D. Ayuso, O.D., shall conduct himself in accordance with the provisions of Chapter 32 of Title 54.1 of the Code of Virginia (1950), as amended, and the Regulations of the Virginia Board of Optometry, and all laws of the Commonwealth.

Any violation of the foregoing terms and conditions of this ORDER or any statute or regulation governing the practice of optometry in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of Richard D. Ayuso, O.D., and a formal hearing shall be convened to determine whether Dr. Ayuso's license to practice optometry in the Commonwealth shall be suspended or revoked.

Pursuant to § 9-6.14:14 of the Code of Virginia (1950), as amended, the signed original of this ORDER shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD:

Stanley L. Jason as
Stanley L. Jason, O.D.
President

Entered: 5/3/91

SEEN AND AGREED TO:

Richard D. Ayuso
Richard D. Ayuso, O.D.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Manassas

Subscribed and sworn to before me, a Notary Public in and
for the city/county of Manassas, this 16 day of
January, 1991, by Richard D. Ayuso, O.D.

Judith M. Chase
Notary Public

My Commission Expires: Aug. 31, 1993

RECEIVED: May 6, 1991

BY: Bernard L. Henderson, Jr.
Bernard L. Henderson, Jr., Director
Department of Health Professions